

## REMARKS

### *Drawings*

Formal drawings for Figures 6A and 10A are included with this Response and should fully address the requirement for corrected drawings.

### *Claim Rejections – 35 USC § 112*

Claims 17, 18, 20 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for lack of proper antecedent basis. These claims have been cancelled and the rejection of these claims under § 112 is believed to be moot.

### *Claim Rejections – 35 USC § 102*

Claims 16, 18 and 21 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,612,729 to Ellis (“Ellis”)

These claims have been cancelled and the rejection of these claims under § 102 is believed to be moot.

It is submitted that new claims 30-46 are novel over Ellis and contain limitations not taught by Ellis, alone or in combination with any of the cited references.

### *Claim Rejections – 35 USC § 103*

Claims 17, 19-20 and 22-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ellis in view of U.S. Patent No. 6,570,991 to Scheirer (“Scheirer”). Claims 23-24 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Ellis in view of U.S. Patent No. 5,960,388 to Nishiguchi (“Nishiguchi”).

These claims have been cancelled and the rejection of these claims under § 103 is believed to be moot.

It is submitted that new claims 30-46 are novel over Ellis and contain limitations not taught by Ellis, alone or in combination with Scheirer and Nishiguchi.

To the extent that any of the Examiner’s previous grounds of rejection may apply to the limitations of the new claims, the following observations may be useful.

The problem addressed by Ellis is how to determine when a television or radio advertisement or “commercial” has been aired. In the exact words of Ellis:

Broadcast advertisers need to confirm that their advertisements have been aired in their entireties by designated broadcast stations and at the scheduled times. Further, it may be desirable for advertisers to know what advertisements their competitors have aired. (Col.1, lines 10-18).

Ellis focuses mainly on television commercials, which include both a video and audio signal. Television broadcasts and the audio signal that accompanies the broadcasts are very different than the music described in the specification of the present invention in many ways. One noteworthy difference is that television broadcasts have an intrinsic frame structure. See e.g. Ellis Col. 2, lines 51-57. Typically each frame contains about 1/30 of a second of content. Id. The musical content described in the specification of the present application does not typically contain this structure. Therefore, the intrinsic frame structure cannot be relied upon in creating a signature and necessitates methods not taught by Ellis, as recited in the new claims.

*Information Disclosure Statement*

An Information Disclosure Statement is included along with this Response and the Examiner is kindly requested to consider the references therein. It is submitted that new claims 30-46 are novel and non-obvious over the references contained in the Information Disclosure Statement.

*Conclusion*

Accordingly, it is believed that this application is now in condition for allowance and an early indication of its allowance is solicited. However, if the Examiner has any further matters that need to be resolved, a telephone call to the undersigned attorney at 415-318-1168 would be appreciated.

Respectfully submitted,



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Date

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